

TITLE 12. COMMERCE AND NAVIGATION
CHAPTER 3. RIPARIAN LANDS
ARTICLE 1. LEASES, GRANTS AND CONVEYANCES
A. IN GENERAL

Current through L.1998 c. 153

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12:3-1. Commissioners to make survey and report as to riparian lands, etc.

P.L.1864, c. 391, p. 681 (Rev.1877, pp. 981, 982, §§ 1 to 6; C.S. pp. 4383, 4384, §§ 1 to 7), entitled "An Act to ascertain the rights of the state and of the riparian owners in the lands lying under the waters of the bay of New York, and elsewhere in the state," approved April eleventh, one thousand eight hundred and sixty-four, saved from repeal. [This act provides for the appointment of a board of commissioners to cause to be made surveys of the lands lying under the waters of the bay of New York, of the

Hudson river and the lands adjacent thereto, the Kill von Kull, Newark bay, Arthur Kill, Raritan bay and the Delaware river opposite to the county of Philadelphia, not theretofore granted by the state; to ascertain the state's rights in the same and the value thereof; to fix the exterior line beyond which no permanent obstruction should be permitted and to report to the legislature and recommend a plan for the improvement, use, renting or leasing of said lands with maps of said lands showing the said exterior line, the lines of existing piers, etc., and any grants of such lands not then occupied, with other appropriate information.]

12:3-2. Establishment of exterior bulkhead and pier lines in tidewaters of Hudson river, New York bay and Kill von Kull

The bulkhead line or lines of solid filling and pier lines in the tidewaters of the Hudson river, New York bay and Kill von Kull, lying between Enyard's dock, on the Kill von Kull, and the New York state line, so far as they have been recommended and reported to the legislature by the commissioners appointed under the act entitled "An act to ascertain the rights of the state and of the riparian owners in the lands lying under the waters of the bay of New York, and elsewhere in the state," approved April eleventh, one thousand eight hundred and sixty-four (L.1864, c. 391, p. 681), by report bearing date February first, one thousand eight hundred and sixty-five, are hereby adopted and declared to be fixed and established as the exterior bulkhead and pier lines between the points above named, as such exterior bulkhead and pier lines so fixed, established and adopted are shown upon the manuscript maps, accompanying said report, and filed in the office of the secretary of state, except as said lines have been or may hereafter be changed pursuant to section 12:3-13 of this title and except said lines drawn on said maps over or upon lands within the boundaries of the grant made to the Morris Canal and Banking Company by the act entitled "A further supplement to the act entitled 'An act to incorporate a company to form an artificial navigation between the Passaic and Delaware rivers,' passed December thirty-first, eighteen hundred and twenty-four," approved March fourteenth, one thousand eight hundred and sixty-seven.

12:3-3. Filling in beyond bulkhead lines; erection of piers

It shall not be lawful to fill in with earth, stones or other solid material, in the tidewaters of the Hudson river, New York bay and Kill von Kull, beyond the bulkhead line or lines of solid filling by section 12:3-2 of this title adopted, fixed and established, laid down and exhibited on the aforesaid maps; and it shall not be lawful to erect or maintain any pier or other structure exterior to the said bulkhead line or lines of solid filling in any place or places where no exterior line for piers is reported or indicated by said maps, on the Hudson river, New York bay and Kill von Kull and when an exterior line for piers is recommended and shown by said report and maps, no erection or structure of any kind shall be erected, allowed or maintained beyond or exterior to the

aforesaid bulkhead line or lines of solid filling, except piers which shall not exceed one hundred feet in width respectively, and which shall in no case extend beyond the line indicated for piers on said maps accompanying said report; and no piers shall be constructed in said tidewaters, when such exterior pier lines are adopted, fixed and established, at less intervals between such piers than seventy-five feet, except at places occupied and used for ferries, or to be so occupied or used, when the spaces between the piers may be less; nor shall any such pier be constructed in any other manner than on piles or on blocks and bridges; and if on blocks and bridges, such blocks and bridges shall not occupy more than one-half of the length of the pier, and they shall be so constructed as to permit a free flow or passage of water under and through them, without any other interruption or obstruction than the pile or blocks necessary to support said piers.

12:3-4. Repeal of Wharf Act of 1851; reclaiming or building upon lands under tidewaters; consent of department; prior grants and licenses

The repeal of the act entitled "An act to authorize the owners of lands under tidewaters to build wharves in front of the same," approved March eighteenth, one thousand eight hundred and fifty-one (L.1851, p. 335), as to the tidewaters of this State below the line of mean high tide, by section three of the act entitled "Supplement to an act entitled 'An act to ascertain the rights of the State and of riparian owners in the lands lying under the waters of the bay of New York and elsewhere in this State,' approved April eleventh, eighteen hundred and sixty-four," approved March thirty-first, one thousand eight hundred and sixty-nine (L.1869, c. 383, p. 1017), as amended by the act approved March twentieth, one thousand eight hundred and ninety-one (L.1891, c. 124, p. 216), shall not be construed to restore any supposed rights, usage or local common law, founded upon the tacit consent of the State or otherwise to fill in any land under water below mean high tide.

Without the grant or permission of the Department of Conservation and Economic Development no person or corporation shall fill in, build upon or make any erection on or reclaim any of the lands under the tidewaters of this State; and in case any person or corporation so offending shall be guilty of purpresture, which shall be abated at the cost and expense of such person or corporation, on application of the Attorney-General, under judgment of the Superior Court or by indictment in the county in which the same may be, or opposite to or adjoining which said purpresture may be; provided, however, that neither this section nor any provision contained in sections 12:3-2 to 12:3-9 of this Title, shall in anywise repeal or impair any grant of land under water, or right to reclaim made directly by legislative act, or grant or license, power or authority, so made or given, to purchase, fill up, occupy, possess and enjoy lands covered with water fronting and adjoining lands owned or authorized to be owned by the corporation, or grantee or licensee in the legislative act mentioned, its, his or their representatives, grantees or assigns, or to repeal or impair any grant or license, power or authority to erect or build docks, wharves and piers opposite and adjoining lands

owned, or authorized to be owned by the corporation, or grantee or licensee in the legislative act mentioned, its, his or their representatives, grantees or assigns made prior to July first, one thousand eight hundred and ninety-one, or given directly by legislative acts, whether said acts are or are not repealable, and as to any revocable license given by the board of chosen freeholders of a county prior to July first, one thousand eight hundred and ninety-one, to build docks, wharves or piers, or to fill in or reclaim any lands under water in this State, the same shall be irrevocable so far as the land under water has been or shall be lawfully reclaimed or built upon under any such license issued prior to July first, one thousand eight hundred and ninety-one, provided such reclamation or building under such license shall be completed prior to January first, one thousand eight hundred and ninety-two; but as to the future such revocable license, if the said lands covered by the license have not been wholly or in part lawfully reclaimed or built upon, is hereby revoked, and no occupation or reclamation of land under water without such legislative act or revocable license shall divest the title of the State, or confer any rights upon the party who has reclaimed or who is in possession of the same.

12:3-5. Conveyances or leases to grantee or licensee under legislative act: amount of rental or purchase price; conversion of lease into conveyance; rights of grantee or licensee

In case any person or corporation who by any legislative act, is a grantee or licensee, or has such power or authority, or any of his, her or their representatives or assigns shall desire a paper capable of being acknowledged and recorded, made by and in the name of the State of New Jersey, conveying the land mentioned in the proviso to the third section of an act entitled "Supplement to an act entitled 'An act to ascertain the rights of the State and of riparian owners in the lands lying under the waters of the bay of New York and elsewhere in this State,' approved April eleventh, eighteen hundred and sixty-four," approved March thirty-first, one thousand eight hundred and sixty-nine (s 12:3-4 of this Title), whether under water now or not, and the benefit of an express covenant, that the State will not make or give any grant or license power, or authority affecting lands under water in front of said lands, then and in either of such cases, such person or corporation, grantee or licensee, having such grant and license, power or authority, his, her or their representatives or assigns on producing a duly certified copy of such legislative act to the Planning and Development Council in the Department of Conservation and Economic Development, and in case of a representative or assignee also satisfactory evidence of his, her or their being such representative or assignee, and requesting such grant and benefits as in this section mentioned, shall be entitled to said paper so capable of being acknowledged and recorded, and granting the title and benefits aforesaid, on payment of the consideration hereinafter mentioned; and the Planning and Development Council, and Commissioner of Conservation and Economic Development with the Governor and Attorney-General for the time being, to be shown by the Governor signing the grant, and the Attorney-General attesting it, shall and may execute and deliver and acknowledge in

the name and on behalf of the State, a lease in perpetuity to such grantee or licensee or corporation having such grant, license, power or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation, upon his, her or their securing to be paid to the State an annual rental of such reasonable sum as the Planning and Development Council may fix with the approval of the Commissioner of Conservation and Economic Development for each and every lineal foot measuring on the bulkhead line, or a conveyance to such grantee or licensee or corporation having such grant, license, power or authority, and to the heirs and assigns of such grantee or licensee, or to the successors and assigns of such corporation in fee, upon his, her, or their paying to the State such reasonable sum as the Planning and Development Council may fix with the approval of the Commissioner of Conservation and Economic Development for each and every lineal foot measuring on the bulkhead line, in front of the land included in said conveyance; provided, that no corporation to whom any such grant, license, power or authority was given by legislative act as aforesaid, in which provision was made for the payment of money to the Treasurer of the State for each and every foot of the shore embraced and contained in the act; nor the assigns of such corporation shall be entitled to the benefits of this section; and provided further, that the board shall in no case grant lands under water beyond the exterior lines hereby established, or that may be hereafter established, but the said conveyance shall be construed to extend to any bulkhead or pier line further out on said river and bay that may hereafter be established by legislative authority; in case any person or corporation taking a lease under this section, shall desire afterwards a conveyance of all or any part of the land so leased, the same shall be made upon payment of such reasonable sum for every such lineal foot, as the Planning and Development Council may fix, with the approval of the Commissioner of Conservation and Economic Development, the conveyance or lease of the board under this section or sections 12:3-2 to 12:3-9 of this Title, shall not merely pass the title to the land therein described, but the right of the grantee or licensee, individual or corporation, his, her or their heirs and assigns, to exclude to the exterior bulkhead line, the tidewater by filling in or otherwise improving the same, and to appropriate the land to exclusive private uses, and so far as the upland from time to time made shall adjoin the navigable water, the said conveyance or lease shall vest in the grantee or licensee, individual or corporation, and their heirs and assigns, the rights to the perquisites of wharfage, and other like profits, tolls and charges.

12:3-6. Payment of or security for purchase money or rentals for lands below high-water mark

No grant hereafter made, extending beyond the line of high-water mark, shall be in force or operation as to so much thereof as extends below said line of high-water mark, until the grantee or grantees shall have paid into the treasury of the state such compensation or rentals, or secured to the state such payment or rentals for the estate in the lands lying below the said line of mean high-water mark, contained in and conveyed by such grant or lease as provided in section 12:3-7 of this title.

12:3-7. Grant of riparian land not improved; notice to riparian owner

If any person or persons, corporation or corporations, or associations, shall desire to obtain a grant for lands under water which have not been improved, and are not authorized to be improved, under any grant or license protected by the provisions of sections 12:3-2 to 12:3-9 of this title, it shall be lawful for the board, together with the governor and attorney general of the state, upon application to them, to designate what lands under water for which a grant is desired lie within the exterior lines, and to fix such price, reasonable compensation, or annual rentals for so much of said lands as lie below high-water mark, as are to be included in the grant or lease for which such application shall be made, and to certify the boundaries, and the price, compensation or annual rentals to be paid for the same, under their hands, which shall be filed in the office of the secretary of state; and upon the payment of such price or compensation or annual rentals, or securing the same to be paid to the treasurer of this state, by such applicant, it shall be lawful for such applicant to apply to the commissioners for a conveyance, assuring to the grantee, his or her heirs and assigns, if to an individual, or to its successors and assigns, if to a corporation, the land under water so described in said certificate; and the board shall, in the name of the state, and under the great seal of the state, grant the said lands in manner last aforesaid, and said conveyance shall be subscribed by the governor and attested by the attorney general and secretary of state, and shall be prepared under the direction of the attorney general, to whom the grantee shall pay the expense of such preparation, and upon the delivery of such conveyance, the grantee may reclaim, improve, and appropriate to his and their own use, the lands contained and described in the said certificate; subject, however, to the regulations and provisions of sections 12:3-2 and 12:3-3 of this title, and such lands shall thereupon vest in said applicant; provided, that no grant or license shall be granted to any other than a riparian proprietor, until six calendar months after the riparian proprietors shall have been personally notified in writing by the applicant for such grant or license, and shall have neglected to apply for the grant or license, and neglected to pay, or secured to be paid, the price that the board shall have fixed; the notice in the case of a minor shall be given to the guardian, and in case of a corporation to any officer doing the duties incumbent upon president, secretary, treasurer or director, and in case of a nonresident, the notice may be by publication for four weeks successively in a daily newspaper published in Hudson county, and in a daily newspaper published in New York city.

12:3-7.1. Inability to give required notice; notice by publication; effect

In the event an applicant for a grant or lease of riparian lands cannot comply with the provisions of Revised Statutes 12:3-7 or Revised Statutes 12:3-23, requiring 6 months notice to the riparian or shore owner of an application for a grant or lease because of the applicant's inability to determine the location of the present or former

mean high water line, such applicant shall file with the Department of Conservation and Economic Development a notice of his intention to apply for a riparian grant or lease, describing therein the lands desired, together with an affidavit of an engineer or surveyor licensed in this State, setting forth the reasons why the location of the mean high water line cannot be determined, and requesting permission of the Commissioner of the Department of Conservation and Economic Development to publish the notice of intention to make an application in form prescribed by the commissioner once a month for 6 successive months, prior to the filing of the application, in a newspaper published and circulated in the county or counties wherein the lands are situate. Upon receipt of such notice of intention the commissioner shall investigate the facts set forth therein and may grant the requested permission for publication; and may also, as a condition thereof, require such additional notice as he shall deem appropriate to inform adjacent property owners of the applicant's intention to seek a riparian grant or lease.

Upon the execution of the grant or lease after the notice as provided herein, all privileges or claims of pre-emption of riparian owners to the lands therein described shall forever cease and terminate.

12:3-8. Trespass on lands of state under water; proceedings by attorney general; expenses

The department may commence a civil action in the name of the State of New Jersey against persons and corporations trespassing upon or occupying the lands of the State under water, or which were heretofore under water, and the Attorney-General of the State is hereby required to commence and prosecute such actions as may be instituted or directed by the department; and his expenses and disbursements, and the expenses and disbursements of such assistants as may be appointed by the Governor, and their reasonable charges and counsel fees shall be taxed by the court and paid by the State Treasurer, upon presentation of the bill so taxed.

12:3-9. Grant to person other than riparian owner; procedure

In any case where a grant of the lands of the State under water is made by the department to any person other than the riparian owner the State's grantee shall not fill up or improve said lands under water until the rights and interest of the riparian owner in said lands under water (if any he has) shall be extinguished, as follows: The department shall fix the amount to be paid to said riparian owner for his rights and interest therein (if any he has), and said riparian owner shall have the right, within twenty days after he has been notified of said amount, to accept said sum in full extinguishment of all his rights, or if he is dissatisfied with said award he may apply to the Superior Court for a struck jury to try the question in such place as may be designated by said court, and said jury may increase or diminish the amount to be paid the said riparian owner, and their verdict shall be final as to said amount, and on the

payment or tender by the State's grantee to the riparian owner of the amount fixed by said jury all the rights and interests of said riparian owner in the lands of the State under water in front of his land shall be extinguished; the costs of the trial shall be paid as follows: If the verdict of the jury is greater than the award of the board then the State shall pay the costs of the trial, if the verdict is the same as the award or less than the award of the department then the riparian owner shall pay the costs.

12:3-10. Lease or conveyance to riparian owner on application to board

Any riparian owner on tidewaters in this State who is desirous to obtain a lease, grant or conveyance from the State of New Jersey of any lands under water in front of his lands, may apply to the board, which may make such lease, grant or conveyance with due regard to the interests of navigation, upon such compensation therefor, to be paid to the State of New Jersey, as shall be determined by the board, which lease, conveyance or grant shall be executed as directed in sections 12:3-2 to 12:3-9 of this Title, and shall vest all the rights of the State in said lands in said lessee or grantee.

The board in its discretion, upon application in writing from any riparian owner, may cancel and annul any lease, grant or conveyance heretofore made to such riparian owner, and thereupon such lands, and rights therein, so leased, granted or conveyed shall revert to the State.

12:3-11. Waters excluded

Section 12:3-10 of this title shall not interfere with sections 12:3-2 to 12:3-9 of this title as to the waters of the Hudson river, New York bay or Kill von Kull, easterly of Enyard's dock.

12:3-12. Covenants, clauses and conditions in grants or leases whether land under water or not

The council with the concurrence of the Governor and Attorney General, in all cases of application for grants or leases of land now, or at the time of the application, or at the time of the lease or grant, under tidewater; and in all cases of application for grants or leases of lands which are not now, or shall not at the time of the application, or at the time of the lease or grant be under tidewater, and in all cases of applications for leases or grants for all or any of such lands may, notwithstanding the first proviso in section 12:3-5 of this Title, or any other clause or matter contained in sections 12:3-2 to 12:3-9 of this Title, grant or lease, or lease first with a covenant to grant, and grant afterwards, for such principal sum that the interest thereof at 7% will produce the rental, such lands, or any part thereof lying between what was, at any time heretofore, the original high-water line and the seaward territorial jurisdiction of the State, and grant or

lease in all cases in which, in their discretion, they shall think such grant or lease should be made, such rights, privileges and franchises as they are authorized to grant in cases coming directly within said section 12:3-5 of this Title, and enter into the same covenants in the name of the State, in all cases of grants or leases where they deem such covenants proper, as are authorized in grants or leases under said section 12:3-5 and insert such other covenants, clauses and conditions in said grants or leases as they shall think proper to require from the grantee or lessee, or ought to be made by the State; provided, that nothing herein contained shall authorize grants or leases in front of a riparian owner to any other than such riparian owner, except upon the proceedings and conditions provided in sections 12:3-2 to 12:3-9 of this Title; and provided also, that the applications for grants or leases, and the certificates of said council, Governor and Attorney General, may in the cases hereby provided for, vary from the provisions of said sections 12:3-2 to 12:3-9 in such manner as to conform to this section, and any party who has already asked for or accepted a lease or conveyance may apply for and have the benefits of this section, notwithstanding such former application or former acceptance of a lease or conveyance.

12:3-12.1. Tidelands management; policy availability; legislative findings and declarations

The Legislature finds and declares that the Tidelands Resource Council is the public body responsible for the stewardship of the State's riparian lands; that it is the responsibility of the council to determine whether applications for the lease, license, or grant of riparian lands are in the public interest; that it is the responsibility of the council to determine, in assessing applications for the lease, license, or grant of riparian lands, whether the State may have a future use for such lands; that the council must obtain the fair market value for the lease, license or grant of riparian lands in accordance with court decisions and legal opinions of the Attorney General; and that the substantive policies adopted by the council and information about the roles of the council and the tidelands management program within the Department of Environmental Protection in requiring, reviewing, and processing applications for the lease, license, and grant of riparian lands should be made readily available to the general public and should be provided to those who apply for permission to use riparian lands.

12:3-12.2. Tidelands Resource Council informational guide

The Tidelands Resource Council shall develop an informational guide entitled "Guide to the Tidelands," which shall be written in clear and plain language such that a person possessing a high school degree or its equivalent can understand any information provided in the guide. The council shall provide a copy of the guide to any person expressing an interest in applying for a lease, license or grant of any riparian land and to any other person who requests a copy of the guide. The guide shall

contain the following information:

- a. A brief history of the designation of riparian lands in New Jersey as property of the State to be held in the public trust;
- b. The purpose of the Tidelands Resource Council and the tidelands management program within the Department of Environmental Protection, emphasizing the status of mapped riparian lands as property of the State under the stewardship of the Tidelands Resource Council;
- c. A complete listing and explanation of application fees adopted by the council pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.);
- d. An explanation of the process involved in submitting an application to the council, and an explanation of the method by which the council establishes the fair market value of riparian lands, and the consequent price of a lease, license, or grant of such lands;
- e. An explanation of the process by which an applicant for a lease, license, or grant of riparian lands may appeal to the council for a reduction in the price of such lease, license, or grant as established by the council; and
- f. Any information not specified in subsections a. through e. of this section that the council determines will help applicants obtain a clear understanding of the council's role as steward of State-owned riparian lands.

12:3-12.3. Tidelands Resource Council; adoption of rules and regulations

The Tidelands Resource Council shall, pursuant to the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), adopt rules and regulations setting forth all fees imposed by the council, but shall not be required to publish as a rule or regulation any formula or method used to determine the fair market value of a lease, license or grant. All leases and licenses shall be conveyed for a minimum of seven years.

12:3-13. Change in pier lines or lines of solid filling; map and survey; basins

The council may change, fix and establish any other lines than those now fixed and established for pier lines, or lines for solid filling in the tidewaters of the State, or make any changes in any basin now fixed and established, or lay out and fix and establish any new basin or basins in the tidewaters of the State, and when so fixed and established, the council shall file a map and surveys in the office of the secretary of state, showing what lines have been fixed and established by it for the exterior lines for solid filling and pier lines, as well as for any changes in basins or new basins fixed, laid

out and established by it under this section.

12:3-14. Encroachment prohibited

From and after the filing of said map and surveys in the office of the secretary of state, no encroachment of any kind shall be permitted to be made beyond said lines so fixed and established for solid filling or pier lines, or in or upon any basin or basins so laid out and established.

12:3-15. Lease or sale of basins; dedication as public basins

The board may make, for a satisfactory consideration, any lease or sale to the owners of the lands fronting on the said basin, of the right to have the exclusive use of the said basin or basins, for the purpose of wharfage and docking, and to charge a reasonable sum for the use of the same on the line of bulkhead owned by them respectively; and that from and after the filing of said map and survey, the same shall remain as a public basin or basins, and they are hereby dedicated for that purpose.

12:3-16. Fixing of purchase price or rentals for lands below highwater mark or formerly under tidewater; lease or conveyance

It shall be lawful for the board, together with the governor, to fix and determine within the limits prescribed by law, the price or purchase money or annual rental to be paid by any applicant for so much of lands below high-water mark, or lands formerly under tidewater belonging to this state, as may be described in any application therefor duly made according to law, and the board, with the approval of the governor, shall, in the name and under the great seal of the state, grant or lease said lands to such applicant accordingly, and all such conveyances or leases shall be prepared by the board or its agents at the cost and expense of the grantee or lessee therein and shall be subscribed by the governor and the board and attested by the secretary of state.

12:3-17. Repealed by L.1979, c. 311, s 4, eff. Jan. 17, 1980

12:3-18. Right of way separating riparian owner's lands from tidewater; effect on leases and grants

When lands have been or shall be taken or granted for a right of way and such right of way has been or shall be so located on land of a riparian owner as to occupy the same along or on the shore line, thereby separating the upland of the riparian owner adjoining that used for the right of way from tidewater, such owner of the land so

subject to such right of way shall be held to be a riparian owner for the purpose of receiving any grant or lease heretofore or hereafter made of the lands of the state under water, or for the purpose of receiving any notice under sections 12:3-2 to 12:3-17 of this title; provided, that nothing in this section shall affect the rights of the state to the lands lying under water.

12:3-19. Establishment of bulkhead and pier lines around islands in tidewaters

The board, with the approval of the governor and after consultation with the board of engineers acting under the authority of the secretary of war, shall, from time to time, fix and establish, around or in front of all islands, reefs and shoals situate in the tidal waters of this state, exterior lines in said waters, beyond which no pier, wharf, bulkhead, erection or permanent obstruction of any kind shall be made or maintained, and also the interior lines for solid filling in said waters, beyond which no permanent obstruction shall be made or maintained other than wharves and piers and erections thereon for commercial uses; provided, however, that no exterior line around or in front of any such island, reef or shoal shall be fixed and established in front of any riparian grant which was made prior to February tenth, one thousand eight hundred and ninety-one, unless such exterior line shall be fixed and established, after consultation with said board of engineers, at such distance as will, in the judgment of the board of commerce and navigation, leave sufficient waterway in front of said grants for navigation, and when the board shall have so fixed and established said lines after consultation as aforesaid, it shall file a survey and map thereof in the office of the secretary of state, showing the lines for piers and solid filling so fixed and established.

12:3-20. Sale or lease of riparian lands around islands, reefs or shoals

The board, together with the governor, may sell or let to any applicant therefor any of the lands under water and below mean high-water mark, embraced within the lines fixed and established pursuant to section 12:3-19 of this title, upon such terms as to purchase money or rental, and under such conditions and restrictions as to time and manner of payment, the duration and renewal of any lease, the occupation and use of the land sold or leased, and such other conditions and restrictions as the interest of the state may require, and as may be fixed and determined by the board together with the governor.

12:3-21. Removal of sand and other material without license; penalty; exception

No person or corporation shall dig, dredge or remove any deposits of sand or other material from the lands of the State lying under tidal waters without a license so to do first obtained as provided in section 12:3-22 of this Title, and any person or corporation who shall so unlawfully dig, dredge or remove any deposit of sand or other material as

aforesaid shall forfeit and pay for each and every such offense the sum of one hundred dollars (\$100.00), to be prosecuted for and recovered by a civil action by any person or persons in any court of competent jurisdiction with costs of suit, the one-half the amount so recovered to be for the use of the State, and the other half to the use of the person or persons who shall sue for and prosecute the same to effect; provided, however, that nothing in this section contained shall prevent the owner of any grant or lease from the State, or the assignee or lessee thereof, from digging, dredging, removing, and taking sand and other material within the lines of, or in front of, such grant or lease, for the purpose of improving lands granted or leased to them, or their grantors or lessors, by the State, nor prevent such owner, assignee or lessee from digging or dredging a channel or channels to the main channels, and removing and taking the material therefrom.

12:3-22. License to remove sand or other materials from lands under tidewaters

The board, with the approval of the governor, may, under such terms and restrictions as to duration, compensation to be paid and such other conditions and restrictions as the interests of the state may require, license by an instrument in writing, executed in the same manner as grants of land under water are required to be executed, any person or corporation to dig, dredge or remove any deposits of sand or other material from lands of the state under tidewaters.

12:3-23. Lease or grant to persons other than riparian owners; notice to riparian owners

The board, with the approval of the governor, may lease or grant the lands of the state below mean high-water mark and immediately adjoining the shore, to any applicant or applicants therefor other than the riparian or shore-owner or owners, provided the riparian or shore-owner or owners shall have received six months' previous notice of the intention to take said lease or grant such notice given by the applicant or applicants therefor, and the riparian or shore-owner or owners shall have failed or neglected within said period of six months to apply for and complete such lease or grant; the notice herein required shall be in writing and shall describe the lands for which such lease or grant is desired, and it shall be served upon the riparian or shore-owner or owners personally; and in the case of a minor it shall be served upon the guardian; in case of a corporation upon any officer performing the duties of president, secretary, treasurer or director, and in the case of a nonresident owner the notice may be by publication for four weeks successively at least once a week in a newspaper or newspapers published in the county or counties wherein the lands are situate, and in case of such publication, a copy of such notice shall be mailed to such nonresident owner (or in case such nonresident owner be a corporation, then to the president of such corporation, directed to him at his post-office address, if the same can be ascertained, with the postage prepaid); but nothing contained in sections

12:3-21 to 12:3-25 of this title shall be construed as repealing, altering, abridging, or in any manner limiting the provisions and power conferred upon the riparian commissioners and governor by sections 12:3-19 and 12:3-20 of this title.

12:3-24. Sale or lease of lands below high-water mark; lease convertible into grant not required

The board, together with the governor, shall not be required to give leases for lands of the state under water, convertible into grants upon payment of the principal sum mentioned therein, but may sell or let any of the lands of the state below mean high-water mark upon such terms as to purchase money or rental, and under such conditions and restrictions as to time and manner of payment, the duration and renewal of any lease, the occupation and use of the lands sold or leased, and such other conditions and restrictions as the interest of the state may require, as may be fixed and determined by the board, together with the governor.

12:3-25. Renewals of leases; provision for determining annual rentals

The department, together with the Governor, may, in any lease of lands of the State below mean high-water mark, provide for a renewal or renewals of the lease for a subsequent term or terms to be expressed in the lease, and therein provide that the annual rentals to be paid for each renewal shall, in case the amount cannot be agreed upon, be fixed and determined before the commencement of the renewal term by three arbitrators, one to be appointed by the State, one by the then lessee, and the third by their joint agreement, or should they fail to agree, then by the Superior Court.

12:3-26. License required to lay pipes under state lands under tidewaters

The council, with the approval of the Governor, may license any person or corporation to lay any pipe or pipes on or under the lands of the State under tidewaters under such terms and restrictions as to duration, compensation to be paid, and such other conditions and restrictions as the interests of the State may require. Such license shall be granted by a written instrument and executed in the same manner as grants of land under tidewaters are required to be executed.

12:3-27. Enlarging or reducing tidewater basins; reclamation; leases and grants; limitations

Whenever the state has, prior to March fourth, one thousand nine hundred and eighteen, dedicated any lands under water to public use as a tidewater basin, it shall be lawful for the board, on the application of the owners of all of the lands abutting

thereon, to either enlarge or reduce the area of said basin or change the boundaries thereof, and said owners of lands adjoining and abutting upon said tidewater basin are hereby authorized to fill up and reclaim the same to such extent as the board in writing may confirm, and the board is hereby authorized and empowered upon the payment of an adequate consideration therefor, to grant or lease in the manner provided by law to the owners of lands adjoining and abutting upon said tidewater basin, the state's rights in any portion of said basin so filled up and reclaimed; provided, however, that no reclamation by any person of said lands and no grant or lease thereof by the board shall be valid unless all of the owners of lands fronting and abutting on said basin shall consent in writing thereto.

Nothing in this section shall authorize the entire closing of any such basin or its reduction in width to less than two hundred feet; nor shall this section apply to any lands of the Morris Canal and Banking Company, or operate to relieve said company from any obligation imposed upon it by law.

12:3-28. Construction or alteration of bridges over tidal waters; approval of board; repeal by subsequent act

Whenever a state board or agency has been or may hereafter be authorized or directed by any law of this state to build a bridge or other structure, or to alter or change any existing bridge or other structure on or over any lands of this state flowed by the tidal waters thereof, such board or agency, before proceeding with the work, shall first submit to and obtain the approval of such plans or work by and from the board of commerce and navigation.

This section shall not be taken to be or have been repealed by any act passed subsequent to April first, one thousand nine hundred and twenty-seven, authorizing the building of bridges or structures, or the alteration or changing of existing bridges or other structures by any state board or agency as aforesaid unless such subsequent act authorizing the same contains an express repealer of this section.